

MR1035-1320

Application Serial No. 10/674,547

Response to Official Action dated 29 June 2005

**REMARKS/ARGUMENTS**

This case has been carefully reviewed and analyzed in view of the Official Action dated 29 June 2005. Responsive to the rejections made by the Examiner, Claims 1 – 20 have been amended and are now clearer in their respective recitations. Claims 1 – 20 will be pending in this Application upon entry of this amendment.

In the Official Action, the Examiner rejected Claims 1 – 20 under 35 U.S.C § 102(e) as being anticipated by Yakov (U.S. Published Application # 2004/0111308). In setting forth the rejections, the Examiner stated that Yakov shows the negotiation of network usage by a network broker and the providing of network usage to one or more virtual network operators by the network broker.

Applicant's invention provides a method for a network broker to ascertain the service requirements of a virtual network operator having little or no network of its own for the purpose of providing, through the network broker, usage of a network operated by a network company for providing those services. As the amended Claims of the subject Patent Application now more clearly recite, Applicant's brokering method "determin[es] from a virtual network operator a first set of network services to be provided thereby" and "negotiat[es] from a network company providing a second set of network services on a network operated thereby usage of the network to perform the first set of network services". Among the beneficial features of the invention of the subject Patent Application is that

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negotiations are conducted where “at least a subset of the first set of network services is not included in the second set of network services”. The broker of Applicant’s invention then “provid[es] to the virtual network operator usage of the network for performing a first set of network services” so that the virtual network operator is operable to provide specialized services over and above those provided by the network company.

Nowhere is it disclosed or even suggested in Yakov that the network broker thereof “negotiat[e] from a network company providing a second set of network services ... usage of the network to perform the first set of network services, where at least a subset of the first set of network services is not included in the second set of network services”, as the amended Claims of the subject Patent Application now recite. Yakov teaches allocation of network resources whereby network providers and customers submit “ASK” and “BID” requests to a virtual trading floor so as to sell and buy such resources as bandwidth, quality of service, and usage time. Yakov, then, teaches practices for trading network resources as commodities as opposed to brokering network usage for “performing a first set of network services”, as does the invention of the subject Patent Application.

Although Yakov tracks user statistics of network usage in preparation of making a bid for resources, nowhere does reference contemplate network usage by a virtual network operator of a network operated by a network company for “performing a first set of network services” much less where “at least a subset of

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the first set of network services is not included in the second set of network services [provided by the network company]". Thus, in that Yakov fails to disclose each and every step of the subject invention, as now claimed, the invention of the subject Patent Application cannot be anticipated thereby.

For the objectives of Yakov, which are directed towards trading network resources as commodities, the broker thereof is not adapted for "determining from a virtual network operator a first set of network services to be provided thereby" and then "negotiating from a network company providing a second set of network services on a network operated thereby usage of the network to perform the first set of network services, where at least a subset of the first set of network services is not included in the second set of network services", as is now claimed in the subject Patent Application. Indeed, Yakov requires that the customer submit a bid to a broker based on resource requirements. The broker of Applicant's invention, on the other hand, determines the first set of services from the virtual network operator and then negotiates with a network company, providing a second set of services, the usage of a network for providing the first set of services, but "where at least a subset of the first set of network services is not included in the second set of network services". Thus, the invention of the subject Patent Application, by which a broker would negotiate usage of a network company's network based on services not provided thereby, would not be made obvious by Yakov, which treats

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network resources as time-dependent commodities without regard to what services are ultimately performed on the network, without the improper use of hindsight.

All of the Independent Claims of the subject Patent Application recite the limitation of "at least a subset of the first set of network services is not included in the second set of network services" or alternatively, "the plurality of network services provided by the virtual network operator including network services not provided by the network company", which is neither disclosed nor suggested by Yakov. Thus, it is believed that the Independent Claims of the subject Patent Application are in condition for allowance. Additionally, the Dependent Claims of the subject Patent Application recite the same limitation by inherency through its dependency on a corresponding base Claim reciting the limitation directly. Thus, the Dependent Claims are believed to be allowable for at least the same reasons for which the Independent Claims are believed allowable.

The remaining references cited by the Examiner, but not used in the rejections have been reviewed and are believed to be further remote from the subject Patent Application than the references used by the Examiner when patentable considerations are taken into account.

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It is now believed that the subject Patent Application is in condition for allowance and such action is respectfully requested.

Respectfully submitted,  
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29 SEP 2005

Date